

**Corporate Response Form 'Third Package' Consultation**  
URN 10D/727 Open: 27/07/2010 Close: 19/10/2010

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**Consultation Questions**

**Chapter 1 – Consumer Protection**

**1** Consultees are invited to comments on Government proposals to implement the consumer protection measures of the Third Package.

We have not commented on general consumer protection measures. We have included comments against question 2 below as this may have a direct impact on processes that the Transporter Agency operates on behalf of all Gas Distribution Networks.

**2** In respect of the requirement to switch customers within three weeks, subject to contractual terms, we propose to put in place a new Licence Condition requiring the new supplier to give new customers a 14 calendar day period after the contract has been entered into, to consider whether they wish to proceed with this. Unless the customer notifies the supplier they do not wish to proceed, the Licence Condition will require the new

**supplier to give customers the right to change their mind within 14 calendar days and then be switched within three weeks, subject to outstanding debt (and, in the case of non-domestic customers, contractual conditions). Do consultees agree with this proposal?**

We would agree that standard "cooling off" periods should be available to all gas consumers. A change to the Supplier Licence to incorporate this would appear as a reasonable way to ensure that such a cooling off period exists within both gas and electricity markets.

We would also agree that to have a standard maximum switching timescale would also be in the general interest and benefit to all gas and electricity customers. In order to ensure that the 3 week timescale can be met, it is vital to make sure that there is sufficient clarity on when this period commences and when it concludes.

The remainder of our comments in relation to the 3 week switching timescale are limited to gas industry processes only.

The Uniform Network Code (UNC) sets out the arrangements for the administration of the supply point register and the supply point transfer process. The UNC effectively sets out the contractual arrangements between gas transporters (including GDNs) and gas Shippers. The majority of Shipper organisations have a Supplier business and the terms Shipper and Supplier can be interchanged. However, there are a small number of active independent Suppliers that need to have separate contractual arrangements in place with a gas Shipper.

The administration of the supply point register and the transfer process is undertaken, on behalf of the gas transporters, by xoserve as the Transporter Agency. The Transporter Agency is a requirement within the gas transporter licence and fulfils a number of additional centralised functions that are requirement within the UNC.

The supply point transfer process operates in isolation from any existing cooling off processes that Suppliers may operate (i.e. the Transporter Agency would be unaware whether a cooling off period has been completed or not). We believe this is consistent with the intention of the EU 3<sup>rd</sup> package and the processes that the Transporter Agency operate (i.e. no impact as the 3 weeks commences after the 14 days).

The supply point transfer process does contain a Shipper objection mechanism that allows for the incumbent Shipper to object to a transfer if they have reason to do so (e.g. on the basis of an existing contract). A transfer cannot be completed until the period of potential objection (7 days) has expired.

The end to end supply point transfer process can take up to 15 (business) days to complete. Details of the existing process have been presented within UNC meetings and details can be found at:

<http://www.gasgovernance.co.uk/sites/default/files/Third%20Energy%20Package.pdf>

A key issue in this debate has been what the definition of 3 weeks is. Our latest understanding from DECC is that 3 weeks is a period of 21 days regardless of whether any of those days are weekends or bank holidays. On this basis the existing supply point transfer process would allow for the vast majority of transfers to successfully complete within the 3 week period. Only when bank holidays fall within the 3 weeks would this not be achieved. Should the definition of the 3 weeks to be changed to not include bank holidays then this would significantly reduce the implementation issues associated with this part of the 3<sup>rd</sup> package.

As the cooling off period is proposed to be 14 days we assume that this does not include bank holidays (as otherwise it would have been set as 2 weeks). As this is not a process operated by ourselves, or the Transporter Agency, the interpretation of this is not an issue for us but may need further clarification for other parties (i.e. Suppliers).

The presentation in the above link examines other options that would allow the 3 week timescale to be met including a high level indication of the complexity of implementation for the Transporter Agency. Shipper/Supplier organisations may experience different complexities with each of the options and would need to be considered before taking any of them further.

Despite the options presented above there is a further issue that, if resolved, would ensure that there would be minimal, or no, implementation issues. This is the right of Suppliers to object to a transfer if and when appropriate. It would seem inherently sensible for incoming Suppliers to only be subjected to a 3 week switching requirement once the objection process has completed/expired. If this process is within the 3 week timescale it will require, unless other changes are made, for Suppliers to be able to transfer a site within 2 weeks to satisfy the right of any incumbent Shipper to object. We do not believe that this is the intention of the EU 3<sup>rd</sup> package and that the 3 weeks should commence once the potential for objection has expired (for both domestic and non-domestic customers).

We welcome further clarity on this matter and would happily discuss this matter further with DECC and/or Ofgem prior to any conclusions being made.

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| <b>3</b> | <b>Do consultees consider that the requirement on supply undertakings which are not registered in Great Britain, to provide a GB address for the service of the documents, poses any difficulty for these suppliers? Evidence of costs to these suppliers would be particularly welcome.</b> |
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We have no comments to make on this matter.

## Chapter 2 – Transmission and Distribution Networks

**4** Do you have any comments relevant to our consideration of which unbundling models should be available in the GB market?

We have not made comments on this Chapter of the consultation document.

**5** Do you have any views or concerns with how we intend to apply these new Third Package requirements on TSOs and DSOs?

We have not made comments on this Chapter of the consultation document.

### Chapter 3 – Gas Infrastructure

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| <b>6</b> | <b>Should the Gas Directive requirements for storage and LNG operators be introduced through a new licence regime or by amending existing legislation? Please provide evidence of costs and benefits wherever possible.</b> |
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We have not made comments on this Chapter of the consultation document.

### Chapter 4 – Role of the National Regulatory Authority

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| <b>7</b> | <b>Implementing binding decisions</b> |
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For the reasons we have set out in the consultation document, the Government proposes to replace the current collective licence modification objection arrangements with a process that allows Ofgem to reach its decisions subject to appeal to an appropriate body. This would reinforce Ofgem's power to make decisions in accordance with their powers and duties under the Third Package, and would give all licensees the same right of appeal. Ofgem's decisions, as now, would need to be reached following consultation and subject to the principles of better regulation. This proposal would include all Ofgem licence modification decisions and not only those covered by the Third Package. We would be grateful for your views on these proposals.

The Energy Networks Association (ENA) have been in discussion with DECC on this matter, on behalf of its members, and will be providing a response to the separate consultation that was issued in early October 2010. If necessary, we will also respond separately to the additional consultation document.

## **Chapter 5 - Cross border co-operation**

<b>8</b>	<b>Do you have any views or concerns with how we intend to introduce the regional co-operation elements of the Third Package?</b>
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We have not made comments on this Chapter of the consultation document.

## Impact Assessment Questions

**These are partial Impact Assessments containing our initial qualitative assessment of the costs and benefits. We therefore would welcome any quantitative evidence to support the further development of these impact assessments. Any information provided will be treated with sensitivity and anonymity.**

### Consumer Switching

<b>9</b>	<b>Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with this measure?</b>
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Until there is absolute certainty on the definition of the 3 week switching period, and whether it includes the right to object, it is not possible to identify the associated costs and benefits.

As included within our response to question 2, we believe that the 3 week period should not include the period where the incumbent Shipper / Supplier has the right to object to the transfer. On this basis, the cost of changing the existing supply point transfer process would be zero for the Transporter Agency.

We have not commented on the benefits of introducing a 3 week maximum timescale other than that we agree a consistent process should apply to all customers.



10	The Government would welcome any information that could improve our analysis of the costs and benefits highlighted in this Impact Assessment, and specifically any evidence regarding: supplier systems changes, monitoring costs, administrative burdens, the number of extra erroneous switches which may occur as a result of our proposals, the cost of manually stopping the switch and any information regarding the number of customers that currently fall outside the 3 week switching period defined (excluding the cooling-off period).
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We have included details about the impact to the Transporter Agency in our response to the previous question.

### Consumer Information

11	Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with these measures?
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We have no comments to make in response to this question.

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| 12 | <b>The Government would welcome any information that could improve our analysis of the costs and benefits highlighted in this Impact Assessment, and specifically any evidence regarding: whether the record keeping requirement imposes additional costs (system costs and administrative costs) on industry; an estimate of the scale of these costs; and any evidence regarding the costs associated with passing on consumption and metering data to another supplier.</b> |
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We have no comments to make in response to this question.

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| 13 | <b>What would be the additional costs to the industry for providing the additional information to consumers in terms of complaints handling/dispute settlement arrangements available by the supplier?</b> |
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We have no comments to make in response to this question.

**National Regulatory Authority**

<b>14</b>	<b>Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with these measures?</b>
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We have no comments to make in response to this question.

15	<b>We would welcome any information that could improve our analysis of the costs and benefits highlighted in this Impact Assessment, and specifically any evidence regarding; the monitoring, enforcement and administrative costs involved and any evidence regarding the indirect costs on industry of these measures.</b>
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We have no comments to make in response to this question.

### **Transmission and Distribution**

16	<b>Are the Impact Assessment assumptions on the costs to TSOs of complying with the new TSO certification process realistic (both for those seeking derogations and those not doing so)?</b>
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We have no comments to make in response to this question.

17	The Impact Assessment assumes that ensuring the independence of the compliance officer for DSOs requires little additional action on the part of the affected DSOs. Your views including evidence of costs would be appreciated.
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We have no comments to make in response to this question.

### Gas and LNG Operators

18	Are the assumptions made as part of this Impact Assessment correct and have we correctly identified the costs and benefits associated with these measures?
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We have no comments to make in response to this question.

19	<b>What specific changes to current practice will be required to comply with articles 15 (unbundling) and 16 (confidentiality) of the Directive? What are the likely costs of making these changes?</b>
We have no comments to make in response to this question.	
20	<b>Articles 15, 17 and 19 of the Gas Regulation specify that certain operational information must be made publicly available by 'technically and economically necessary' LNG and storage sites. What are the likely costs involved in making this information publicly available?</b>
We have no comments to make in response to this question.	

21	<p>Article 22 of the Regulation outlines the requirement for contracts and procedures to be harmonised at ‘technically and economically necessary’ LNG and storage sites. What changes to current practices will, in your view, be required to achieve this and what are the likely costs of making these changes?</p>
<p>We have no comments to make in response to this question.</p>	
22	<p>We would welcome evidence on the costs and benefits of introducing a licensing regime for LNG and storage as opposed to introducing the measures through changes to legislation.</p>
<p>We have no comments to make in response to this question.</p>	

